

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

ROSALBA GONZALEZ

Plaintiff,

V.

**UNITED PROPERTY & CASUALTY
INSURANCE COMPANY AND
AND ANA RODRIGUEZ**

Defendants.

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CIVIL ACTION

NO.: _____

JURY DEMAND

**DEFENDANT UNITED PROPERTY AND CASUALTY INSURANCE COMPANY'S
NOTICE OF REMOVAL**

Defendant United Property and Casualty Insurance Company ("UPC") files this Notice of Removal:

I. Background

1. On January 5, 2016, Plaintiff Rosalba Gonzalez ("Plaintiff") filed this lawsuit in Hidalgo County, Texas, naming UPC and Ana Rodriguez as defendants.

2. Plaintiff served UPC with a copy of the Petition on January 25, 2016. Plaintiff served Ana Rodriguez with a copy of the Petition on February 16, 2016.

3. UPC files this notice of removal within 30 days of receiving Plaintiff's initial pleading. *See* 28 U.S.C. § 1446(b). In addition, this Notice of Removal is being filed within one year of the commencement of this action. *See id.*

4. As required by Local Rule 81 and 28 U.S.C. § 1446(a), simultaneously with the filing of this notice of removal, attached hereto as Exhibit "A" is an index of matters being filed. A copy of the Docket Sheet is attached as Exhibit "B." A copy of Plaintiff's Original Petition is attached as Exhibit "C." A copy of the citation served on UPC is attached as Exhibit "D." A

copy of the citation served on Ana Rodriguez is attached as Exhibit “E.” A copy of UPC’s Original Answer to Plaintiff’s Original Petition is attached as Exhibit “F.” The list of Counsel and Parties to the Case is attached as Exhibit “G.” A copy of this Notice is also being filed with the state court and served upon the Plaintiff.

5. Venue is proper in this Court under 28 U.S.C. § 1441(a) because this district and division embrace Hidalgo County, Texas, the place where the removed action has been pending.

II. Basis for Removal

6. Removal is proper based on diversity of citizenship under 28 U.S.C. §§ 1332(a), 1441(a) and 1446. This is a civil action between citizens of different states, and the amount in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs.

A. The Proper Parties Are Of Diverse Citizenship.

7. Plaintiff is, and was at the time the lawsuit was filed, a resident and citizen of Texas.

8. UPC was at the time this action was commenced, and still is, a foreign (Florida) property and casualty insurance company authorized to do business in the State of Texas. UPC is organized under Chapter 982 of the Texas Insurance Code.

9. Upon information and belief, Defendant Ana Rodriguez is, and was at the time this action was commenced, a resident and citizen of Texas. With respect to the claims against Rodriguez, it is UPC’s position that she has been improperly joined in this action. Upon information and belief, the Ana Rodriguez named and served by Plaintiff had no involvement in the claim made the subject of Plaintiff’s lawsuit. Upon further information and belief, the Ana Rodriguez joined and served in this case works for Aggressive USA, an auto carrier, and has

absolutely nothing to do with this case. Therefore, the Texas citizenship of Rodriguez should be disregarded for the purposes of evaluating diversity in this matter.

10. Because Plaintiff is a citizen of Texas and Defendant UPC is a citizen of Florida, complete diversity of citizenship exists among the proper parties.

B. The Amount in Controversy Exceeds \$75,000.00.

11. This is a civil action in which the amount in controversy exceeds \$75,000.00. Plaintiff's Petition expressly alleges that Plaintiff seeks damages "over \$100,000 but not more than \$200,000." *See* Exhibit C § XI.

III. Conclusion and Prayer

12. Accordingly, all requirements are met for removal under 28 U.S.C. §§ 1332 and 1441. UPC hereby removes this case to this Court for trial and determination.

Respectfully submitted,

/s/ Rhonda J. Thompson

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COUNSEL FOR DEFENDANT UPC

CERTIFICATE OF SERVICE

This is to certify that on the 24th day of February, 2016, a true and correct copy of the foregoing was delivered to the following counsel of record by electronic service and/or facsimile transmission and/or certified mail, return receipt requested:

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